

Appn. No. 10/667,627

Attorney Docket No. 10541-1869

II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this amendment, claims 1, 3-11, and 13-16 remain pending.

Claim Amendments

Claim 1 has been amended to more particularly point out and distinctly claim that which is regarded as the invention by incorporating the limitations of claim 2 therein. Accordingly, claim 2 has been canceled. In addition, claim 10 has been amended to incorporate the limitations of claim 12, as well as reciting the limitation of staggered gaps as disclosed in paragraph 15 of the specification. Accordingly, claim 12 has been canceled.

Claim Rejections – 35 U.S.C. § 102

Claims 1-4, 6, and 9-13 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0209344 ("Fang"). Applicant respectfully traverses these rejections.

As noted by the Examiner, Fang discloses an automotive heat exchanger. More specifically, it discloses a heat exchanger including an oil cooling section, first and second manifolds, and a plurality of tubes defining an oil flow passage. *Fang*, para. 31 and 40 and Fig. 1. The tubes in Fang are extruded metal with an internal configuration that may include minor structures, such as grooves, ridges or bosses (*id.* at para. 49), not fins as claimed. Referring to claim 1, it is submitted that Fang fails to disclose a

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plurality of metal tubes with fins extending from an inner wall into the oil flow passage.

The rejection based thereon should be accordingly withdrawn.

Referring now to claim 10, it is submitted that in addition to failing to disclose fins extending from an inner wall into the oil flow passage, Fang also fails to disclose gaps between opposed fins wherein the gaps are staggered across the tube and each gap is offset relative to adjacent gaps. Accordingly, the rejection based thereon should be withdrawn.

Claim Rejections – 35 U.S.C. § 103

Claims 5 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0209344 ("Fang"). Applicant respectfully traverses these rejections.

The comments presented above regarding claims 1 and 10 are equally applicable to the present rejection in that Fang fails to disclose every element claimed in the present invention. Therefore, it must be concluded that Fang cannot render the claims of these dependent claims as obvious. The rejection under § 103(a) should accordingly be withdrawn.

Claims 7, 8, 15 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0209344 ("Fang") in view of U.S. Patent No. 6,231,158 ("Rhodes"). Applicant respectfully traverses these rejections.

The comments presented above regarding claims 1 and 10 are equally applicable to the present rejection in that Fang fails to disclose every element claimed

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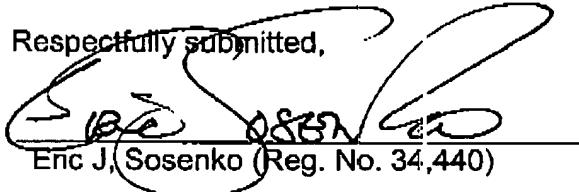
in the present invention. Therefore, it must be concluded that Fang individually and when combined with Rhodes, fails to disclose or suggest the features lacking in the claims, namely fins extending from the inner wall of the metal tubes into the oil flow passage and gaps between the fins staggered across the oil tube.

In that Rhodes fails to disclose or suggest the fins and gaps which were previously noted as being absent in Fang, it must be concluded that the combination of Fang in view of Rhodes cannot render the dependent claims of the present application as obvious. The rejection under § 103 is therefore improper and should be withdrawn.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

October 13, 2005
Date

Respectfully submitted,

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Attachments: None

EJS/DPH/AEL